

Remarks

Reconsideration and allowance of this application, as amended, are respectfully requested.

The written description portion of the specification, claims 1-13, and the abstract of the disclosure have been amended. Claims 1-13 remain pending in the application. Claim 1 is independent. The rejections are respectfully submitted to be obviated in view of the amendments and remarks presented herein. No new matter has been introduced through the foregoing amendments.

The specification has been editorially amended for conformance with 37 CFR § 1.77(c), for consistency, and to correct any informalities. The abstract has been editorially amended for conformance with 37 CFR § 1.72(b). The claims have been amended in general to more fully comply with U.S. practice. Entry of each of the amendments is respectfully requested.

35 U.S.C. § 103(a) - Shaldon

Claims 1, 2, and 6-8 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,284,141 to Shaldon et al. (hereinafter "Shaldon"). The examiner acknowledges, however, that Shaldon "does not explicitly state that the system comprises both an analyzer unit and a control unit" (Office Action page 3, numbered paragraph 4).

The rejection of claims 1, 2, and 6-8 under § 103(a) based on Shaldon is respectfully traversed. For at least the following reasons, the disclosure of Shaldon would not have rendered obvious Applicant's claimed invention.

The examiner asserts that Shaldon discloses a sensor connected to a computer, and that the computer is capable of determining "the concentration of a substance in the blood, the transfer rate of the substance (i.e. efficiency), and total quantity of the substance withdrawn by the membrane" (Office Action page 3). The examiner also implies that Shaldon's "analyzer unit" would compare the values for the concentration, the transfer rate, and the quantity removed with corresponding admissible value ranges.

Applicant's invention, however, is directed to a service in which all of the three named parameters are critical during a blood treatment. As a consequence, the instant invention is configured to control and hence ascertain that the concentration of the substance in the blood, the instantaneous transfer rate, and the total quantity of this substance withdrawn through the membrane of the blood purification element are maintained within predetermined limits.

Shaldon's system is structurally and functionally different from Applicant's claimed device. As even the examiner acknowledges, Applicant's claimed device is not disclosed by Shaldon. Furthermore, Shaldon is silent with regard to comparing

the concentration of the substance in the blood with predetermined limits. As far as the transfer rate of the substance is concerned, Shaldon only addresses an efficiency of the treatment procedure, and here is explicitly referring to the coefficient K/V . K is the clearance of the blood purification element, which refers to a flow of blood that is purified from the considered substance during a certain time period. This certainly is not the same as Applicant's claim feature that is directed to the transfer rate $\Delta M/\Delta t$, which clearly defines *the mass transfer rate* through the membrane. Accordingly, Shaldon does not disclose comparing the mass transfer rate with predetermined limits.

Because of the aforementioned structural and functional differences, there is simply no teaching in Shaldon that would have led one to modify the reference in a way that would result in the invention defined by Applicant's claim 1. Accordingly, the disclosure of Shaldon would not have rendered obvious Applicant's claimed invention. Claims 2 and 6-8 are allowable because they depend from claim 1, and for other reasons.

35 U.S.C. § 103(a) – Shaldon and Bosetto

Claims 3-5 and 9-13 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Shaldon in view of U.S. Patent No. 6,793,827 to Bosetto et al. ("Bosetto").

The rejection of claims 3-5 and 9-13 under § 103(a) based on Shaldon and Bosetto is also respectfully traversed. Regardless


of what Bosetto may disclose with regard to the use of sensors, the disclosure of Bosetto does not rectify any of the above-described deficiencies of Shaldon.

Accordingly, the combined disclosures of Shaldon and Bosetto would not have rendered obvious the invention defined by any of Applicant's claims 3-5 and 9-13.

In view of the foregoing, this application is now in condition for allowance. If the examiner believes that an interview might expedite prosecution, the examiner is invited to contact the undersigned.

Respectfully submitted,

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